

REMARKS

This Response is submitted in reply to the Office Action dated May 4, 2006. Claims 1, 8, 26 and 31 have been amended. No new subject matter has been added to the Claims. Please charge Deposit Account No. 02-1818 for any insufficiency or credit for any overpayment in connection with this Response.

Claims Rejections – 35 USC §112

The Office Action rejected Claims 1, 8, 26 and 31 under 35 U.S.C §112, stating the following:

Evidence that claims 1, 8, 26 and 31 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed 1/9/2006. In that paper, applicant has stated that the prior art reference relied upon fails to teach a tubular shape and the Applicant further provides a series of definitions as provided by The Heritage Dictionary English Language wherein the most applicable definition defines the term “tubular” as “a hollow cylinder . . .” This statement indicates that the invention is different from what is defined in the specification because the Applicants sound director, though hollow, is not *cylindrical* in shape. Instead the Applicant’s sound director resembles more of a hollow rectangular shape. Therefore, the Applicant’s claims are misdescriptive in reciting “tubular portion,” “tubular shape,” and “tubular channel.”

Applicants respectfully disagree with and traverse such rejection. The Office Action suggests that the Specification defines the shape of the sound director as being a shape other than cylindrical. Applicants respectfully point out that the Specification does not provide any such definition. Moreover, the Specification discloses, and provides support for, a plurality of different shapes and configurations of the claimed sound director and its portions. The following sections of the Specification, among other sections, provide such support:

In the examples of the embodiments illustrated in Figs. 1 through 8, the reverb device 10 has a substantially square or rectangular tubular shape. It should be appreciated that in other embodiments not illustrated, the tubular shape of the reverb device 10, or any portion thereof, can have any suitable geometry. For example, the sound director 18 can have a cylindrical shape or a conical shape. (Specification, Page 11, Lines 15-19).

Based on such disclosure, Applicants respectfully submit that the use of the term “tubular” in the Claims is not misdescriptive.

Furthermore, in Applicants’ January 3, 2006 Response to Office Action, Applicants stated the following:

Without limiting the meaning of “tubular,” Applicants refer to The American Heritage® Dictionary of the English Language, Fourth Edition (“Dictionary”) to demonstrate one definition of this term. (Emphasis Added).

In this context, it is clear that Applicants have not disclaimed any other meanings or definitions of “tube” or “tubular.” Therefore, the definition of such Dictionary does not limit the construction or scope of such terms. It should be understood that the Specification and Drawings shed light on the meanings of such terms. Furthermore, in addition to the Dictionary, other dictionaries and sources can also shed light on the meanings of such terms.

Nonetheless, to advance the prosecution of this application, Applicants have voluntarily amended the Claims to replace the term “tubular” with “hollow.” Applicants respectfully submit that the Claims are in compliance with 35 U.S.C §112.

Claims Rejections – 35 USC §102

The Office Action rejected Claims 1-3 under 35 U.S.C § 102(b) as being anticipated by U.S. Patent Application Publication No. US 2002/0189894 A1 to Davis et al. (“Davis”). Applicants suspect that the Office Action erroneously cites 35 U.S.C § 102(b) instead of another section of 35 U.S.C § 102 because Applicants see no basis for such a rejection under 35 U.S.C § 102(b). Applicants respectfully request clarification of such matter. For purposes of advancing the prosecution of this application, Applicants have treated such rejection as if it were properly based on a section of 35 U.S.C § 102.

Applicants have amended the independent Claims. Specifically, Amended independent Claim 1 sets forth the following: “the ear sound deliverer configured to cover all of the ear of the user.” Amended independent Claim 8 sets forth the following: “the ear sound deliverer defining at least one opening sized to cover all of the ear of the user.” Amended independent Claim 26 sets forth the following: “configuring a third portion of the device so that the third portion is operable to: (i) cover all of the ear; and (ii) direct the vocal sound to the ear of the vocalist.” Amended independent Claim 31 sets forth the following: “configuring the mechanical head set so that the mechanical head set is operable to direct the portion of vocal sound to the total area of the ear.”

Applicants submit that Davis does not disclose such elements of such Claims. Accordingly, Applicants respectfully submit that the Claims submitted herewith are in condition for allowance.

Claims Rejections – 35 USC §103

The Office Action rejected Claims 4, 8-15, 26, 27, 29, 31, 32 and 34 under 35 U.S.C § 103(a) as being unpatentable over “Davis (US 6,229,901)” in view of U.S. Patent Application Publication No. US 2002/0131616 A1 to Bronnikov et al. (“Bronnikov”). Applicants suspect that the Office Action erroneously cites “Davis (US 6,229,901)” instead of “Davis (US 2002/0189894 A1).” Applicants respectfully request clarification of such matter. For purposes of advancing the prosecution of this application, Applicants have treated such rejection as if it were based on Davis (US 2002/0189894 A1) in view of Bronnikov.

Applicants submit that the combination of Davis and Bronnikov does not disclose the subject matter defined by the Claims submitted herewith. Specifically, such combination does not disclose the elements set forth above with respect to amended Claims 1, 8, 26 and 31.

In addition, Applicants have voluntarily made certain amendments to Claims 26 and 31. Specifically, Applicants amended the Claim language to set forth a “method for configuring” and “configuring” steps. These amendments were not made to address or overcome any rejections in the Office Action.

An earnest endeavor has been made to place this application in condition for formal allowance and is courteously solicited. If the Examiner has any questions regarding this Amendment, the Applicants respectfully request that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

Renato L. Smith
Reg. No. 45,117
Cust. No. 24573

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